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20 UNITED STATES DISTRICT COURT
21 FOR THE CENTRAL DISTRICT OF CALIFORNIA
22 WESTERN DIVISION

23 UNITED STATES OF AMERICA,
24 Plaintiff,
25 v.
26 ONE GRAY 2019 BMW 330i,
27 Defendant.

No. 2:23-CV-03614

VERIFIED COMPLAINT FOR
FORFEITURE

21 U.S.C. § 881(a)(4)

[DEA]

28 Plaintiff United States of America brings this claim against defendant One Gray 2019 BMW 330i (the “defendant”), and alleges as follows:

JURISDICTION AND VENUE

1. The government brings this *in rem* forfeiture action pursuant to 21 U.S.C. § 881(a)(4).

2. This Court has jurisdiction over the matter under 28 U.S.C. §§ 1345 and 1355.

3. Venue lies in this district pursuant to 28 U.S.C. § 1395.

PERSONS AND ENTITIES

4. The plaintiff in this action is the United States of America.

5. The defendant is One Gray 2019 BMW 330i passenger sedan, vehicle identification number (“VIN”) WBA5R1C59KAK09384 seized by law enforcement officers during a vehicle stop of the defendant that occurred on or about December 8, 2022 at 3330 S. Bristol Street in Santa Ana, California, while the defendant, which is registered to Fidel Castro Aguirre (“Fidel”) was being operated by his brother Anthony Aguirre (“Aguirre”). California Department of Motor Vehicles records provide that Financial Services Vehicle Trust (“FSVT”) of Dublin, OH holds a lien relative to the defendant.

6. The defendant is currently in the custody of the Drug Enforcement Administration (“DEA”) in this District, where it will remain subject to this Court’s jurisdiction during the pendency of this action.

7. The interests of Fidel, Aguirre, and FSVT may be adversely affected by these proceedings.

FACTS SUPPORTING FORFEITURE

Overdose Death Starts Investigation

8. Over the course of the investigation beginning in October 2022, Special Agents from the DEA Orange County District Office (“OCDO”) Enforcement Group 2 (“ENF2”), Enforcement Group 3 (“ENF3”), DEA Riverside Tactical Diversion squad (“TDS”), the Costa Mesa Police Department Special Investigations Unit (“SIU”), the Costa Mesa Police Department (“CMPD”), and the Fullerton Police Department

1 (“FPD”) (collectively the “investigators”) began investigating the involvement of
2 Anthony Aguirre (“Aguirre”) in the narcotics overdose death of a 17-year-old juvenile,
3 “T.C.” Aguirre is the brother of Fidel, the registered owner of the defendant.

4 Aguirre’s November 2022 Drug Sales

5 9. On November 1, 2022, a DEA undercover agent (“UC-1”) arranged a
6 controlled purchase of narcotics from Aguirre via Snapchat. On November 3, 2022, in a
7 parking lot in Costa Mesa, California, UC-1 purchased from Aguirre ten pills stamped
8 with the letter “M” (the “purchased pills”). DEA agents sent the purchased pills to the
9 DEA Southwest Laboratory for analysis, and it later determined with a 95% level of
10 confidence that the purchased pills contained fentanyl.

11 10. On November 3, 2022, investigators established surveillance in the area
12 of 3333 Bear Street, Costa Mesa, California (“3333 Bear St.”), in anticipation of an
13 undercover purchase of ten more suspected fentanyl pills from Aguirre.

14 11. Aguirre drove the defendant and arrived at 3333 Bear St. at approximately
15 3:12 p.m. that same day. After Aguirre parked the defendant next to UC-1’s vehicle UC-
16 1 approached the defendant’s passenger side, but when UC-1 refused to get in the
17 defendant, Aguirre drove away without completing the narcotics transaction.

18 12. Shortly after, investigators saw Aguirre perform counter-surveillance
19 maneuvers, for example, driving the defendant to the nearby South Coast Plaza, located
20 at 3333 Bristol Street, Costa Mesa, California (“3333 Bristol St.”), and driving in
21 circles and making quick turns throughout the mall property.

22 13. While in the South Coast Plaza parking lot, investigators saw Aguirre park
23 the defendant near a white SUV bearing California license plate 6PHK785. Aguirre
24 opened the defendant’s driver’s side door and appeared to engage in a narcotics
25 transaction with the SUV passengers, two female minors (later identified by
26 investigators as “C.O.” and “L.B.”). Aguirre then drove away in the defendant.

27 14. Soon after his encounter with C.O. and L.B., Aguirre exchanged several
28 telephone calls and Snapchat messages with UC-1. Aguirre included in these Snapchat

1 messages a video showing 1) two clear plastic baggies marked with blue stars, 2) one
2 small baggie containing what appeared to be a white substance resembling cocaine, and
3 3) a second small baggie containing approximately ten blue pills with the marking “M”
4 (similar to the pills UC-1 purchased from Aguirre on November 1, 2022).

5 15. During his telephone and Snapchat conversations with UC-1, Aguirre
6 admitted that he had just finished “meeting someone” in the parking lot of Maggiano’s
7 restaurant (located in the South Coast Plaza mall complex, at 3333 Bristol St., which
8 investigators believe referred to Aguirre’s recent meeting with C.O. and L.B.).
9 Aguirre further told UC-1 that he intended to return to UC-1 (waiting a few blocks away
10 at 3333 Bear St.) and complete the earlier interrupted drug sale.

11 16. At approximately 3:38 p.m. on November 8, 2022, investigators saw
12 Aguirre arrive at 3333 Bear St. and park the defendant near UC-1.

13 17. Two minutes later, Aguirre exited the defendant and entered UC-1’s
14 vehicle. While in UC-1’s vehicle, Aguirre sold one small baggie containing
15 approximately ten blue pills bearing the marking “M” to UC-1.

16 18. During the drug transaction, Aguirre discussed T.C.’s overdose death,
17 referring to her as “Kennedy’s friend.” Specifically, Aguirre asked UC-1 “do you know
18 Kennedy right” and “do you know what recently happened right.” Aguirre warned UC-1
19 to be careful of the pills (which he had just sold to UC-1) because Kennedy’s “homegirl”
20 died. Aguirre further admitted that “her homegirl died due to those shits.” Based on
21 their investigation, investigators understood that Aguirre was admitting to having sold
22 narcotics to Kennedy (known to investigators as “K.C.”) and those same narcotics drugs
23 sold by Aguirre led to T.C.’s overdose death.

24 19. Aguirre then returned to the defendant and departed, parking soon thereafter
25 in the area of Aguirre’s Santa Ana, California residence. Investigators ended
26 surveillance at approximately 4:06 p.m.

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Aguirre's December 2022 Arrest

20. A month later on December 8, 2022, UC-1 arranged with Aguirre via Snapchat to purchase more "blues" (*i.e.* the same blue "M30" pills previously purchased by UC-1 from Aguirre) at the same 3333 Bear St. parking lot where their previous drug buy took place. UC-1 asked Aguirre to sell twenty-five pills this time, to which Aguirre agreed, replying "got you b." On the afternoon of December 8, 2022, investigators initiated surveillance at 3333 Bear St.

21. Simultaneously, investigators waited at Aguirre's residence in Santa Ana to execute a federal search warrant.

22. Late in the afternoon on December 8, 2022, investigators saw Aguirre leave his residence and drive away in the defendant. Investigators continued surveillance on Aguirre and watched as he conducted counter-surveillance activities around the neighborhood.

23. Eventually, Aguirre (still driving the defendant) pulled into a parking lot located at 3300 S. Bristol Street in Santa Ana, California, and CMPD officers conducted a traffic stop on defendant there. During the traffic stop Aguirre complied with CMPD officers' instructions to exit the defendant.

24. CMPD K-9 officer G. Maridakis deployed his sophisticated narcotics-detecting canine "Bodi" to conduct an open air sniff of the defendant. Bodi has been trained to detect cocaine, heroin, methamphetamine, methylenedioxymethamphetamine (MDMA) and fentanyl. Bodi alerted to the odor of an illegal narcotic at the defendant's driver's side door. Investigators searched the defendant and found inside the defendant's driver's side door a small plastic baggy containing approximately twenty blue pills which appeared to be counterfeit oxycodone pills typically containing fentanyl.

25. Based on their prior investigation, investigators recognized that these blue pills were the same or similar to the blue pills Aguirre sold to UC-1 on November 3, 2022.

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1 26. Investigators further recognized that the packaging and pills were the same
2 or similar to the baggie of fentanyl pills and crushed fentanyl pill remnants found in
3 T.C.'s bedroom following her overdose death. Based on these similarities, as well as
4 their training and experience, investigators believed that Aguirre sold the fentanyl pills
5 that led to T.C.'s overdose death.

6 Investigators Discover Narcotics at Aguirre's Residence

7 27. On December 8, 2022, investigators searched Aguirre's Santa Ana,
8 California residence, pursuant to a federal search warrant. During the search,
9 investigators found distribution quantities of narcotics, including suspected: fentanyl,
10 MDMA, Xanax, methamphetamine, cocaine, and Alprazolam. Investigators also found a
11 small weight scale with suspected drug residue, a loaded firearm, and small plastic
12 baggies with either blue stars and black circles on the baggies – packaging consistent
13 with the packaging of the ten pills Aguirre sold to UC-1, and the fentanyl pills found in
14 T.C.'s possession.

15 Messages Between Fidel and Aguirre Demonstrate Knowledge of Criminal Acts

16 28. On February 21, 2023, DEA Special Agents ("SAs") Ernesto Aguilar and
17 Daniel Ponce searched Aguirre's cellphone and learned that Fidel and Aguirre discussed
18 Aguirre's criminal activities, and that Fidel was the straw registrant for the defendant,
19 which was actually Aguirre's property. SAs found messages, photos, and videos related
20 to Aguirre's crimes, and Fidel's knowledge thereof, to wit:

- 21 a. On or about October 7, 2022, Aguirre told his brother(Fidel) that
22 he was driving to Tijuana, Mexico, for "business" and that "If I
23 don't hit you back by 3-4 am well things didn't go right." Fidel
24 asked for details, to which Aguirre responded he was going to
25 "Drop a load and come back with 60K" adding he would be
26 traveling with "Me and 3 homies." Fidel also expressed his
27 concern for Aguirre, stating "I don't want you to be set up. Be safe
28 and smart. I mean. You good as long as you don't kill anybody."

- b. Fidel messaged Aguirre and stated, “Oh I have the Glock.”
- c. Fidel messaged Aguirre, regarding the defendant, and asked, “Tono send me the info on ur car . . . [t]he color the vin number the license tag number.” Aguirre responded with photographs of defendant and related CA Dept. of Motor Vehicles records showing the defendant registered to Fidel, but in Aguirre’s possession.
- d. Aguirre’s phone contained a video dated October 7, 2022, showing a border crossing at Tijuana, Baja California.
- e. Aguirre’s phone contained multiple photos of firearms.

29. Investigators understood these above conversations as evidence that Fidel was aware of Aguirre’s criminal activities trafficking narcotics, and that Fidel knew that Aguirre used the defendant in the furtherance and facilitation of those criminal acts.

30. Investigators further believed that where Fidel referred to “ur [your] car,” demonstrated ignorance of the defendant’s license plate number, VIN, or even the color, that Fidel is admitting that he is merely a straw registrant for the defendant.

31. Aguirre is a criminal defendant in the pending criminal case, *U.S. v. Anthony Aguirre*, 8:22-cr-00182-FWS. He is charged in that case with possession for sale of a designated controlled substance and with being a felon in possession of a firearm.

CLAIM FOR RELIEF

32. Based on the above, plaintiff United States of America alleges that the defendant was used, or was intended to be used to transport, or in any manner to facilitate the transportation, sale, receipt, possession or concealment of a controlled substance or listed chemical. The defendant is therefore subject to forfeiture pursuant to 21 U.S.C. § 881(a)(4).

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1 WHEREFORE, plaintiff United States of America prays:

2 (a) that due process issue to enforce the forfeiture of the defendant;

3 (b) that due notice be given to all interested parties to appear and show cause why
4 forfeiture should not be decreed;

5 (c) that this Court decree forfeiture of the defendant to the United States of
6 America for disposition according to law; and

7 (d) for such other and further relief as this Court may deem just and proper,
8 together with the costs and disbursements of this action.

9 Dated: May 11, 2023

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14 /s/ James E. Dochterman
15 JAMES E. DOCHTERMAN
16 Assistant United States Attorney

17 Attorneys for Plaintiff
18 United States of America
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VERIFICATION

I, Daniel Ponce, hereby declare that:

1. I am a Special Agent of the Drug Enforcement Administration and am familiar with this investigation.

2. I have read the above Verified Complaint for Forfeiture and know its contents. It is based upon my own personal knowledge and reports provided to me by other law enforcement agents, which I believe to be reliable.

3. Everything contained in the Complaint is true and correct, to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed May 11, 2023 in Santa Ana, California.

A handwritten signature in cursive script that reads "Daniel Ponce". The signature is written in black ink and is positioned above a horizontal line.

Daniel Ponce
Special Agent
Drug Enforcement Administration